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10/091,606	03/04/2002	Brad K. Winking	020375-005700US	7664
20350 7590 12/08/2009 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER GOTTSCHALK, MARTIN A				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/091,606

Applicant(s)

WINKING ET AL.

Examiner

MARTIN A. GOTTSCHALK

Art Unit

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 27 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 33-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 33-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. Claims 1-14 and 33-45 are pending and have been examined. Claims 1 and 33 are amended. The remaining claims are as per the original.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-4, 13, 14, 33-36, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahuja et al (PG Pub# US 2001/0056402, hereinafter Ahuja) in view of Walker et al (US Pat# 5,884,274, hereinafter Walker) and further in view of Muehlberger et al (US Pat# 5,285,382).

As per claims 1 and 33, Ahuja discloses a system for processing account payments, comprising:

control logic configured to receive one or more payment transactions from a client (Ahuja: [0090], i.e. "...method...includes the steps of...receiving bill paying requests..."),

each payment transaction being received in one of at least two submission formats (Ahuja: [0090], i.e. "...receiving bill paying requests...over cellular telephone communication channels...");

control logic configured to invoke a real-time process to process payment transactions that are determined to be processed on a real-time basis, the real-time process being invoked upon submission of the payment transactions that are determined to be processed on the real-time basis (Ahuja: [0090], i.e. "...debiting the customer's bank accounts substantially in real-time in response to the debit message...");

and

wherein for each payment transaction processed by the real-time process, available credit relative to a corresponding account is adjusted in real-time based on information included in such payment transaction (Ahuja: [0090], reads on "debiting");

and

wherein a payment transaction represents either a payment to be credited against a corresponding account or a reversal to be performed against the corresponding account to retract a previously made payment (Ahuja: [0044], reads on "crediting an debiting").

and

wherein for a payment transaction that is a payment to be credited against a corresponding account, the available credit to the corresponding account is increased by at least a portion of the amount of the payment received (Ahuja: [0044]. Note that if the bill to be paid is credit card bill, the credit card account will be credited with a payment from the cardholder, the cardholder's available credit will increase by the amount of the payment, i.e. the available credit will reflect the decrease in amount owed by the cardholder to the creditor.).

Ahuja fails to teach the following feature, however, this is well known in the art as evidenced by Walker who teaches

control logic configured to invoke a batch process to process payment transactions that are determined to be processed on a batch basis, the batch process being invoked at a designated time in a processing cycle without regard to timing of submission of the payment transactions that are determined to be processed on the batch basis (Walker: col 9, Ins 5-6);

It would have been obvious at the time of the invention to one of ordinary skill in the art to include the teachings of Walker with those of Ahuja with the motivation of extending the remote, wireless banking services of Ahuja (Ahuja: [0097]) to include the foreign exchange insurance strategy of Walker (Walker: col 1, In 60 to col 2, In 24) with the motivation of protecting consumers against currency fluctuations (Walker: col 1, Ins 53-54).

Ahuja teaches determining to process payment transactions on a real-time basis, but fails to teach determining whether or not payment transactions should be processed on a batch basis or on a real-time basis as per the following limitation of claim 1:

control logic configured to determine, for each of the payment transactions, whether the payment transaction is to be processed on a batch basis or on a real-time basis.

Walker teaches processing payment transactions either in real-time or in batch (Walker: col 9, Ins 3-6; Fig 3). The features of the claim are suggested because it is inherent in the teachings of Walker that at some point a determination as to which type of processing will be used must be made. However, Walker fails to explicitly teach the features of the claim, which are taught by Muehlberger who teaches

control logic configured to determine, for each of the payment transactions, whether the payment transaction is to be processed on a batch basis or on a real-time basis (Muehlberger: col 5, Ins 29-39; Figs 4 to 6).

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the system of Ahuja with the teachings of Muehlberger with the motivation of extending the remote, wireless banking services of Ahuja (Ahuja: [0097]) to include the transaction clearing functions taught by Muehlberger with the motivation of performing real-time funds collection for transactions above a predetermined amount, and waiting for a time when communication rates are reduced to perform a batch process to collect funds from transactions below the predetermined amount, thus saving on communication costs (Muehlberger: col 1, ln 61 to col 2, ln 2).

As per claims 2 and 34, Ahuja teaches the system according to claim 1 wherein

upon adjusting the available credit relative to the corresponding account in real-time, the available credit is immediately accessible to an account holder of the corresponding account (Ahuja: [0090]).

As per claims 3, 4, 35, and 36, Ahuja teaches the system according to claim 1 wherein

(claims 3 and 35) a payment transaction represents a payment received from an account holder toward an amount owed on a credit account (Ahuja: [0054]).

and

(claims 4 and 36) the system according to claim 3 wherein for each transaction payment processed by the real-time process, if such payment transaction represents a payment to be credited against the corresponding account, a payment amount identified in such payment transaction is applied in whole or in part to the available credit relative to the corresponding account in real-time in accordance with evaluation results derived from evaluating one or

more attributes relating to the corresponding account (Ahuja:
[0044]).

As per claims 13 and 44, Walker discloses the system according to claim 1 wherein

the corresponding account is a credit card account (Walker: Figs 3 to 5; col 6, lns
7-14).

As per claims 14 and 45, Ahuja discloses the system according to claim 1 wherein

the system is implemented in software, hardware or a combination of both
(Ahuja: [0069]-[00070]).

5. Claims 5-7 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahuja in view of Walker as applied to claim 3 above, and further in view of Couch (US Pat# 4,650,977, hereinafter Couch).

As per claims 5-7 and 37-39, Ahuja and Walker fail to explicitly teach the features of these claims, but these features are well known in the art as evidenced, for example, by the teachings of Couch.

The claims recite updating delinquency status in real-time depending on whether or not an account transaction debits ("reversal") or credits the account. Updating delinquency status is well known in the art as taught by Couch (Couch: col 6, lns 46-51).

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the system of Ahuja with those of Couch with the motivation of updating delinquency status as taught by Couch (Couch: col 6, lns 46-51), in real-time, as taught by Ahuja (Ahuja: [0090]-[0091]).

6. Claims 8-10, 12, and 40-42 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahuja in view Walker of as applied to claim 1 above, and further in view of Alvin (US Pat# 7,139,731).

As per claims 8, 9, 40, and 41, Ahuja and Walker fail to explicitly teach these features, but the are well known in the art as evidenced by the teachings of Alvin who teaches the system according to claim 1 further comprising:

(claims 8 and 40) control logic configured to update in real-time one or more fraud attributes relating to the corresponding account for each payment transaction processed by the real-time process based on information included in the payment transaction.

(claims 9 and 41) the system according to claim 8 wherein the one or more fraud attributes are forwarded to a fraud prevention system to allow more timely monitoring of potential fraudulent activities concerning the corresponding account (for both claims, see (Alvin col 8, section labeled "Multi-Level Fraud Detection.").

(claims 10 and 42) the system according to claim 1 further comprising:

control logic configured to forward information relating to each payment transaction processed by the real-time process including the available credit relative to the corresponding account to customer service (Alvin: col 7, Ins 33-35, col 8, Ins 47-50, and col 9, Ins 17-21).

(claim 12) the system according to claim 1 further comprising: control logic configured to inform the client about status of the payment transactions processed by the real-time process (Alvin: col 10, section labeled "Customer Service").

It would have been obvious at the time of the invention to modify the system of Ahuja with the teachings of Alvin with the motivation of providing a higher level of risk

management by utilizing a fraud-check system not exclusively dependent on commercially available services (Alvin: col 3, lns 53-59).

7. Claims 11 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahuja in view of Walker as applied to claim 1 above, and further in view of Campbell.

As per claims 11 and 43, Ahuja and Walker fail to disclose the teachings of the claim, however, these features are well known in the art as evidenced by Campbell who discloses the system according to claim 1 further comprising:

control logic configured to forward information relating to each payment transaction processed by the real-time process including the available credit relative to the corresponding account to collections (Campbell: Figs 10B to 20; col 23, lns 5-28).

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the teachings of Ahuja with those of Campbell to determine the delinquency status of an account (Campbell: col 20, lns 36-47).

Response to Arguments

8. Applicant's arguments filed 08/27/2009 have been fully considered but they are not persuasive. Beginning on page 10 of the response, Applicant first argues that for claim 1, the Ahuja reference does not teach payment receipt. The Examiner respectfully disagrees and directs Applicant to the teaching of Ahuja: [0090], "...receiving bill paying requests...over cellular telephone communication channels...", i.e. a "bill paying request" is a (e.g. credit card) debtor electronically paying all or part of a bill to a creditor.

Applicant next argues that for claim 1, Ahuja does not describe the "control logic" for handling payment transactions. While not conceding this point, the Examiner first notes that Ahuja: [0090] is referring to a computerized, electronic method for processing the payment transactions, and asserts that it is inherent in computerized methods that control logic (e.g. via software) must necessarily and always be provided for the implementation of such methods. Therefore since Ahuja describes a computerized method that meets the recited features of the claims (exemplary claim 1 for instance), it meets the "control logic" limitation.

Applicant finally argues that Ahuja fails to teach receipt of payment transactions in "one of at least two submission formats" and provides the example of "electronic submission" as being a type of submission format. The Examiner asserts that central to the Ahuja reference is the submission of payment transactions in electronic format, and refers Applicant to the citations provided above for the rejection of this feature for claim 1.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MARTIN A. GOTTSCHALK** whose telephone number is (571)272-7030. The examiner can normally be reached on Mon - Fri 10:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A. G./
Examiner, Art Unit 3696